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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ANER CRUZ FLORES,

Defendant and Appellant.

H042289

(Monterey County

Super. Ct. No. SS141693A)

Defendant Aner Cruz Flores appeals from a judgment of conviction entered following a court trial. Defendant's appellate counsel has filed a brief in which no issues are raised and which asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). On December 17, 2015, we notified defendant of his right to submit written argument on his own behalf within 30 days. Thirty days have elapsed, and we have received no response.

Pursuant to *Wende*, we reviewed the entire record and found no arguable issues. Below we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed." (*People v. Kelly* (2006) 40 Cal.4th 106, 110 (*Kelly*).

FACTUAL AND PROCEDURAL HISTORY

The Charges and Defendant's Waiver of Jury Trial

An information charged defendant with oral copulation or sexual penetration with a child 10 years of age or younger (Pen. Code, § 288.7, subd. (b); count 1), committing a lewd act upon a child under 14 years of age (Pen. Code, § 288, subd. (a); count 2), and oral copulation with a child under 14 years of age (Pen. Code, § 288a, subd. (c)(1); count 3). As to count 1, the information alleged that defendant was ineligible for probation (Pen. Code, § 1203.065, subd. (a)).

In exchange for dismissal of count 1 and a maximum sentence of eight years in prison, defendant waived his right to a jury trial. The case proceeded to a court trial on counts 2 and 3.

Evidence Presented at the Court Trial

When Jane Doe was three years old, she visited relatives in Chualar. Defendant, the boyfriend of one of Jane Doe's relatives, was present when Jane Doe visited. Jane Doe, who was four years old at the time of the trial, testified regarding the visit. She testified that defendant's "lengua" touched her "wee-wee." Jane Doe explained that her "wee-wee" was her "private part." When the prosecutor asked Jane Doe to show the "lengua," Jane Doe stuck out her tongue.

After defendant touched Jane Doe, she went to her grandmother. Jane Doe's grandmother testified that Jane Doe was "crying hard" and looked "scared." About a week later, Jane Doe told her mother that defendant had "licked" her "down there."

Defendant testified on his own behalf. He denied touching Jane Doe, and he denied licking Jane Doe's vaginal area. Two defense witnesses testified regarding defendant's character. One witness testified that defendant had "excellent" moral character and was not the type of person who would sexually molest a child. The other witness testified that defendant had "a real good character."

Verdict and Sentence

At the conclusion of the evidence, the trial court noted that Jane Doe's testimony was "credible." The trial court found defendant guilty on counts 2 and 3.

The trial court denied probation and sentenced defendant to the middle term of six years in prison on count 2. The trial court stayed the sentence on count 3 pursuant to Penal Code section 654. The trial court ordered defendant to pay various fines and fees. Among the fines and fees were a \$1,800 restitution fine (Pen. Code, § 1202.4, subd. (b)) and a suspended \$1,800 parole revocation restitution fine (Pen. Code, § 1202.45). The trial court ordered defendant to register as a sex offender pursuant to Penal Code section 290.

DISCUSSION

Pursuant to *Wende, supra*, 25 Cal.3d 436 and *Kelly, supra*, 40 Cal.4th 106, we have independently reviewed the entire record and have found no arguable issues. We therefore affirm.

DISPOSITION

The judgment is affirmed.

RUSHING, P.J.

WE CONCUR:

MÁRQUEZ, J.

GROVER, J.

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